

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
) DA 00-1028
Policy and Rules Concerning the) CC Docket No. 96-61
Interstate, Interexchange Marketplace)

COMMENTS ON TRANSITION PLAN

Pursuant to the Commission's notice released on May 9, 2000, in the above-referenced proceeding ("Public Notice"), the Telecommunications Management Information Systems Coalition (the "Coalition")¹ comments on the Commission's transition plan for mandatory detariffing set forth in the Public Notice. Petitioners urge the Commission to ensure that its implementation and transition plan does not undermine the letter or spirit of the public disclosure requirements for nondominant interexchange carrier services adopted by the Commission.

I. INTRODUCTION

In a series of orders in this proceeding,² the Commission adopted mandatory detariffing for domestic, interstate, interexchange services, but -- at the urging of the Coalition and numerous consumer groups -- required that long distance carriers continue to make available to the public information on the rates, terms and conditions for their

¹ The Coalition is composed of three telecommunications management information systems companies and was formed for the purpose of participating in this proceeding. The three companies are Salestar, Center for Communications Management Information ("CCMI"), and Tele-Tech Services ("Tele-Tech").

² *In the Matter of Policy and Rules Concerning the Interstate, Interexchange Marketplace*, Second Report and Order, 11 FCC Rcd 20730 (1996); Order on Reconsideration, 12 FCC Rcd 15014 (1997); Second Order on Reconsideration and Erratum, 14 FCC Rcd 6004 (1999) ("Second Order on Reconsideration").

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services. Specifically, in its Second Order on Reconsideration, the Commission adopted a rule requiring that nondominant interexchange carriers:

... make available to any member of the public, in at least one location, during regular business hours, information concerning its current rates, terms and conditions for all of its detariffed interstate, domestic, interexchange services. Such information shall be made available in an easy to understand format and in a timely manner....

47 C.F.R. §42.10(a). In addition, the Commission adopted a rule requiring that:

a nondominant IXC that maintains an Internet website shall make such rate and service information specified [above] available on-line at its Internet website in a timely and easily accessible manner, and shall update this information regularly.

47 C.F.R. §42.10(b).

Several parties appealed the Commission's various detariffing orders, and the court stayed the effectiveness of these orders pending appeal.³ The court of appeals has now upheld the Commission's orders and lifted the stay.⁴ Following the court's action, the Commission released the Public Notice, which establishes a nine-month transition period during which carriers must cancel their tariff offerings subject to mandatory detariffing. In addition, the Public Notice reminds carriers of the public disclosure obligations adopted in the Second Order on Reconsideration and seeks comment on various aspects of the transition plan. Specifically, the Commission seeks comments on how quickly carriers with websites should be required to come into full compliance with the web posting requirement. As described in more detail below, the Coalition urges the Commission to (a) require carriers to comply with the public disclosure obligations no

³ The Coalition notes, however, that the public disclosure obligations were not challenged on appeal.

⁴ *MCI WorldCom, Inc. et al. v. FCC*, 209 F.3d 760 (D.C. Cir. 2000) (upholding Commission's detariffing orders); Order (D.C. Cir., May 1, 2000) (lifting stay).

later than the time that they choose to detariff to ensure that there is no public information gap, and (b) reiterate that the public disclosure information must be available in a timely manner and in sufficient detail to permit informed consumer choice.

II. ARGUMENT

A. **The Commission Should Require Carriers To Comply With The Public Disclosure Requirements No Later Than When They Choose To Detariff**

The Commission has adopted a nine-month period during which carriers may cancel their tariffs for services subject to the detariffing orders. Accordingly, carriers may cancel their tariffs at any time during this period. The public disclosure rules adopted by the Commission clearly state that the disclosure obligations apply to “all of [a carrier’s *detariffed*] interstate, domestic, interexchange services.”⁵

The Commission should clarify that carriers must comply with the public disclosure rules as to any particular service no later than the time that they choose to detariff that service. Otherwise, carriers could detariff certain services early in the transition period but wait to implement a public disclosure mechanism until the end of the transition period. The resulting “information gap” would undercut the important consumer disclosure objectives outlined by the Commission in the Second Order on Reconsideration:

There is abundant evidence that making information available to consumers is beneficial to competitive markets. . . . [We have taken many actions] to address concerns that consumers were not receiving sufficient information to protect themselves against fraud and misinformation, and to select telecommunications services and providers that best suit their individual needs. . . . [C]onsumers have more choices and, in

⁵ 47 C.F.R. § 42.10(a).

turn, need more information in order to choose the long distance service plan that best suits their needs. . . . [W]e strike the balance once again in favor of consumer concerns. . . .⁶

Any carriers that have not established an adequate web site at the time they detariff should be required to make the required information available at a minimum of one business location beginning when they detariff. Carriers can add the information to their web sites once they are established. Moreover, because the Public Notice prohibits carriers from amending or filing new tariffs during the transition period for contract tariff offerings,⁷ the Commission should explicitly state that carriers must comply with the information disclosure obligations for any new or revised contract tariff offering at the time that such offering is established or revised. Only these actions will ensure that the Commission's important public disclosure goals are met.

B. Public Disclosure Information Must Be Available In A Timely Manner And In Sufficient Detail To Allow Informed Consumer Decision-Making

The Commission's public disclosure rules require that the applicable information be available "in a timely manner" and that carriers must "update this information regularly."⁸ In order to achieve the consumer benefits that were intended by the adoption of these disclosure requirements, the Commission should provide carriers with specific guidance as to acceptable timeframes for filing and updating information. The Coalition suggests that acceptable time frames would be: (a) in most cases, within twenty-four hours of the effectiveness of new or revised rates, terms or conditions, or (b) for new or

⁶ Second Order on Reconsideration at 6013-15.

⁷ Public Notice at 2.

⁸ 47 C.F.R. § 42.10(a) & (b).

revised rates, terms or conditions that become effective over a weekend or holiday, no later than the next business day after the effective date.⁹ Without such guidance carriers will be left to their own, likely broadly varying interpretations. This could result in some carriers updating their information so infrequently that consumers attempting to comparison price their telecommunications service needs would have no guarantee that they were viewing information on all -- or even most -- of the rate plans that actually were available from a specified carrier. Further, in many or most cases, consumers would have no way of knowing what information is missing, and thus no way of detecting or bringing violations of this “timeliness” requirement to the Commission’s attention.

Similarly, the Commission’s public disclosure rules require the disclosure of all current “rates, terms and conditions” for detariffed services. Although the Commission did not adopt a specific list of the terms and conditions that must be included in the public disclosure, the Commission should take this opportunity to emphasize that carriers must disclose the rates, terms and conditions in sufficient detail to permit consumers to make informed choices regarding their telecommunications services. The Coalition urges the Commission to clarify that sufficient detail should mean the public disclosure reasonably mirrors the information currently available in the filed tariffs. As the Commission has recognized,¹⁰ full and accurate information is necessary for truly informed consumer choice.

⁹ The Coalition notes that such a requirement is significantly less burdensome than the prior tariffing regime, which required tariffs to be filed at least one day *prior* to the effectiveness of any new or revised rates.

¹⁰ See, e.g., *Truth-in-Billing and Billing Format*, First Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 7492 (1999).

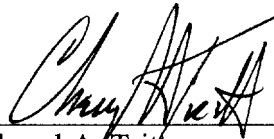
CONCLUSION

For the reasons stated above, the Commission should clearly state that carriers must comply with the public disclosure obligations at the time that they choose to detariff, and that carriers must disclose service information in sufficient detail and in a sufficiently timely manner to permit informed consumer choice.

Respectfully submitted,

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Dated: May 31, 2000

CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of May, 2000, I caused a true and correct copy of the foregoing Comments of the Telecommunications Management Information Systems Coalition to be served by hand delivery upon the following:

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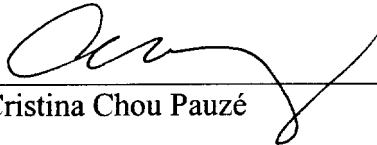
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